

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PENNSYLVANIA

MELODY A STOOPS, *pro se*
Plaintiff,

vs

COMENITY BANK
Defendant.

§
§
§
§
§
§
§
§
§
§

RECEIVED
AUG 14 2014
CLERK U.S. DISTRICT COURT
WEST. DISTRICT OF PENNSYLVANIA

3:14-cv-172

TRIAL BY JURY DEMANDED

**COMPLAINT FOR VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT AND THE
TELEPHONE CONSUMER PROTECTION ACT**

JURISDICTION

1. This court has jurisdiction under 47 U.S.C. § 227(b)(3), 15 U.S.C. § 1692k(d), and 28 U.S.C. §1331.
2. All conditions precedent to the bringing of this action have been performed.

PARTIES

3. The Plaintiff in this lawsuit is Melody Stoops, a natural person, who resides in Flinton, Pennsylvania, Cambria County
4. The Defendant in this lawsuit is also known as Comenity Bank Collectors, which is a debt collection company with offices at 1 Righter Parkway, Wilmington DE 19803-1534.

VENUE

5. The occurrences which give rise to this action occurred in Hartford County, Connecticut and Cambria County Flinton, PA Plaintiff resides in Cambria County, Flinton, Pennsylvania
6. Venue is proper in the District of Pennsylvania

GENERAL ALLEGATIONS

7. On or about June 14, 2014 Comenity Bank began calling Plaintiff's wireless phone number 863-397-5169 from phone numbers 614-212-5298, 913-312-5184 and 720-456-3698 which are numbers known to be used by Comenity Bank in their debt collection operations.
8. All calls made by Comenity Bank were made with automatic telephone dialing system (ATDS) capable equipment to Plaintiff's wireless phone.
9. Comenity Bank has made at least 83 individual calls to Plaintiff's wireless phone beginning June 14, 2014 and continuing through July 23, 2014 using ATDS capable equipment. Comenity Bank makes an average of 5 to 6 phone calls a day to plaintiff's cell. See Attached Exhibit A.
10. The calls made to Plaintiff's wireless phone were not for an emergency purpose and were made without the consent, express or otherwise, of the Plaintiff having been given at any time.
11. Comenity called at times that were inconvenient and when Plaintiff answered the phone there was no live person on the line and no message was left.
12. The Plaintiff has never had any business relationship with Comenity Bank at any time and has never given Comenity her express consent to call her wireless phone.
13. The repetitive calls made by Defendant to Plaintiff were disturbing, harassing, and had the effect of making Plaintiff feel concerned and suspicious about answering the telephone.

VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT (TCPA), 47

U.S.C. § 227 AND THE FAIR DEBT COLLECTION PRACTICES ACT (FDCPA), 15

U.S.C. § 1692 et seq. BY COMENITY BANK

14. Paragraphs 1 through 13 are re-alleged as though fully set forth herein.
15. Plaintiff brings this action pursuant to 47 U.S.C. § 227(b)(1)(A)(iii) and 15 U.S.C. §1692k(d) for the following:

16. On June 14, 2014 at 11:05 a.m. EST to present (See Exhibit A) Comenity Bank called Plaintiff's wireless phone number 863-397-5169 from 614-212-5298, 913-312-5184 and 720-456-3698 using ATDS capable equipment without Plaintiff's prior express consent. The caller failed to identify who was calling the Plaintiff or to identify the purpose of the call. Defendant's harassing and abusive actions and/or its failure to disclose the identity of the caller or purpose of its call were a violation of 15 U.S.C. § 1692d and/or § 1692d(6).
17. Plaintiff made attempts to contact Comenity Bank to reach a settlement of the violations alleged herein to mitigate damages and Defendant failed to cooperate with Plaintiff at all times.
18. Plaintiff called Comenity Bank at 720-456-3698 and demanded that the Bank cease and desist from further phone calls on June 17, 2014 speaking to employee of Bank by the name of Nicole with Badge Number of A677569 initially. She would not disclose the name of the person that Comenity Bank was attempting to reach, saying that it "was a personal matter" Nicole then transferred me to Marion Williams and she stated that my cell phone would be removed from their dialing system and it would take approximately 24 hours.

COUNT I

19. **VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692d** Defendant's aforementioned conduct violated the FDCPA.

WHEREFORE, Plaintiff prays for relief and judgment as follows:

- a. Adjudging that Comenity Bank violated the FDCPA.
- b. Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. § 1692k, in the amount of \$1,000;
- c. Awarding Plaintiff any attorney's fees and costs incurred in this action;
- d. Awarding Plaintiff post-judgment interest as may be allowed under the law;
- e. Awarding such other and further relief as the Court may deem just and proper.

20. Plaintiff repeats and re-alleges each and every allegation stated above.
21. Defendant's aforementioned conduct violated the FDCPA.

WHEREFORE, Plaintiff prays for relief and judgment as follows:

COUNT II

VIOLATIONS OF THE TCPA 47 U.S.C. § 227(b)(1)(A)(iii)

22. Plaintiff repeats and re-alleges each and every allegation stated above.
23. Defendant's aforementioned conduct violated the TCPA, 47 U.S.C. § 227.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a. Adjudging that Comenity Bank violated the TCPA 47 U.S.C. § 227.
- b. Awarding Plaintiff statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B)(C) of \$500 for the first call and \$1500 for each call thereafter made to the Plaintiff's wireless phone as knowing and/or willful violations;
- c. Awarding Plaintiff any fees and costs incurred in this action;
- d. Awarding Plaintiff any post-judgment interest as may be allowed under the law;
- e. Awarding such other and further relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury of all issues so triable as a matter of law.

Ms. Melody Stoops

PO Box 42815

Flinton, PA 16640

Melody C. Stoops
8/14/14